

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

LAWRENCE J. KANSKY	:	
	:	CIVIL NO. 3: 20-CV-0042
Plaintiff,	:	
	:	
vs.	:	(JUDGE MANNION)
	:	
LUZERNE COUNTY, LUZERNE	:	
COUNTY SHERIFF'S DEPARTMENT,	:	
and LUZERNE COUNTY SHERIFF	:	
BRIAN SZUMSKI, individually and in	:	
his official capacity,	:	
	:	
Defendants:	:	(ELECTRONICALLY FILED)

**DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S AMENDED COMPLAINT**

AND NOW, come the Defendants, LUZERNE COUNTY, LUZERNE COUNTY SHERIFF'S DEPARTMENT AND LUZERNE COUNTY SHERIFF BRIAN SZUMSKI, by and through their counsel, Dougherty, Leventhal & Price, LLP, and hereby move this Honorable Court to dismiss the Plaintiff's Amended Complaint pursuant to F.R.C.P. 12(b)(6), averring in support the following:

1. On or about January 9, 2020, Plaintiff Lawrence Kansky filed a Complaint in against Defendants alleging his civil rights were violated. Summons were issued on January 10, 2020. Waivers were returned thereby

making Defendants responsive pleading due on or before March 13, 2020.

2. On January 17, 2020, undersigned counsel has entered his appearance on behalf of the Defendants.

3. On March 13, 2020, Defendants filed a Motion to Dismiss Plaintiff's Complaint and their supporting brief was filed on March 27, 2020.

4. On March 31, 2020, Plaintiff filed an Amended Complaint.

5. Defendants hereby move for the dismissal of the Amended Complaint pursuant to F.R.C.P. No. 12(b)(6) on the grounds that the Plaintiff's Amended Complaint fails to state a claim upon which relief can be granted. The grounds upon which this Motion is based will be fully outlined in the Defendants' supporting brief which will be filed pursuant to Local Rule 7.5.

6. Undersigned counsel contacted counsel for Plaintiff, Cynthia L. Pollick, Esquire, and she does not concur in the filing of this Motion.

WHEREFORE, Defendants pray for the entry of an Order dismissing Plaintiff's Amended Complaint in its entirety.

Respectfully submitted:

DOUGHERTY, LEVENTHAL & PRICE, L.L.P.

By: s/Sean P. McDonough
Sean P. McDonough, Esquire
Attorney for Defendants
PA ID# 47428

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CERTIFICATE OF NON-CONCURRENCE

I, Sean P. McDonough, Esquire, attorney for Defendants, hereby certify that I contacted counsel for the Plaintiff, Cynthia I. Pollick, Esquire and she does not concur in the filing of this motion.

Date: April 14, 2020

s/Sean P. McDonough,
Sean P. McDonough, Esquire
Attorney For Defendants

CERTIFICATE OF SERVICE

I, SEAN P. McDONOUGH, ESQUIRE, hereby certify that on the 14th day of April, 2020, I served the foregoing MOTION TO DISMISS PLAINTIFF'S AMENDED COMPLAINT , upon the persons indicated below as follows:

Via electronic filing

Cynthia L. Pollick, Esquire
The Employment Law Firm
363 Laurel Street
Pittston, PA 18640
pollick@lawyer.com

Respectfully submitted,

DOUGHERTY, LEVENTHAL & PRICE, L.L.P.

s/Sean P. McDonough

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